



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
First Regular Session

House: JUD DP 5-3-0-0-0 | 3rd Read DP 31-29-0-0-0
Senate: JUD DP 5-2-0-0 | 3rd Read DP 16-13-1-0-0

HB 2297: fraudulent schemes; artifices; jurisdiction

Sponsor: Representative Carter, LD 15

Transmitted to the Governor

Overview

Clarifies that not all of the acts necessary for a person to be prosecuted for fraudulent schemes and artifices need to have occurred within Arizona or a single political subdivision of Arizona.

History

Fraudulent schemes and artifices, a class 2 felony, involves a person who, pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions. In order to prove the offense, the prosecution need not show reliance on the part of any person ([A.R.S. § 13-2310](#)).

While the current statute only requires a showing that the defendant knowingly obtained a benefit by means of false pretenses, etc., the Arizona Supreme Court has held that the prosecution must "prove that the scheme or artifice was intended to defraud[.]" thus requiring that, "in those cases in which the defendant is the one who devised the scheme, the state must prove that the defendant devised the scheme with the intent to defraud." *State v. Bridgeforth*, 156 Ariz. 60, 64 (1988).

The terms *benefit* and *knowingly* are defined in statute ([A.R.S. § 13-105](#)). "[A] 'scheme' is a 'plan,' while an 'artifice' is an 'evil or artful strategy.' Thus, a 'scheme or artifice' is some 'plan, device, or trick' to perpetrate a fraud." *Ness v. Western Sec. Life Ins. Co.*, 174 Ariz. 497, 503 (App. 1992) (citing *State v. Haas*, 138 Ariz. 413 (1983)). *Scheme or artifice to defraud* includes a scheme or artifice to deprive a person of the intangible right of honest services ([A.R.S. § 13-2310](#)).

If the offense involved a benefit of \$100,000 or more or the manufacture, sale or marketing of opioids, the defendant is not eligible for suspension of sentence, probation, pardon or release from prison, except in specific circumstances such as work release or compassionate leave, until the sentence has been served, the defendant is eligible for community supervision or the sentence has been commuted. The state is required to aggregate in the charging document the amounts taken in thefts committed pursuant to one scheme or course of conduct, whether the amounts were taken from one or several persons ([A.R.S. §§ 13-2310, 13-1801](#)).

Provisions

1. Stipulates that, in a prosecution for fraudulent schemes and artifices:
 - a) The state is not required to establish that all of the acts constituting the offense occurred within Arizona or a single political subdivision of Arizona; and
 - b) It is not a defense that not all of the acts constituting the offense occurred within Arizona or a single political subdivision of Arizona. (Sec. 1)
2. Makes technical and conforming changes. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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